

## Abortion Law in England and Wales

As well as being subject to the wide range of laws that govern other areas of medical practice, abortion is currently subject to a specific legal regime, made up of three separate statutes.

### 1) The Offences Against the Person Act (1861)

Abortion is illegal by virtue of the Offences Against the Person Act (1861). The 1861 Act prohibits abortion (s.58), supply of the means of performing an abortion (s.59), and concealment of birth (s.60). Under the Act:

- Abortion is illegal from the point of implantation (6-12 days after fertilisation);
- Abortion is punishable by life imprisonment;
- Women who self-induce their own abortion, as well as abortion providers, are potentially liable for criminal sanction.

### 2) The Infant Life Preservation Act (1929)

This provides a separate offence – ‘destruction of a child capable of being born alive’ – which overlaps with the offence created by s.58 of the 1861 Act. This applies where an abortion is performed after viability and is also potentially punishable by life imprisonment.

### 3) The Abortion Act (1967)

Under s.1, the 1967 Act provides that no offence is committed under the 1861 or 1929 Act where:

- *Two doctors agree in good faith that one and the same condition for authorising an abortion is met.* The conditions are that:
  - the pregnancy has not exceeded 24 weeks and poses a greater risk to the woman’s health or that of an existing child than would abortion; or
  - abortion is necessary to prevent grave permanent injury to her health; or
  - continuance of pregnancy would involve greater risk to her life than would abortion; or
  - there is a substantial risk that the future child would be born with mental or physical abnormalities so as to be ‘seriously handicapped’.
- *The abortion is performed by, or under the supervision of, a doctor; and*
- *The abortion is performed on NHS or other approved premises.*

The Act provides for a right of conscientious objection, meaning that no person is under a duty to participate in any treatment authorised by the Act. This does not apply where an abortion is performed to save the life of, or prevent grave permanent injury to, a woman. The Act also lays down requirements for the notification of abortions.